

32B-2-201 Alcoholic Beverage Control Commission created.

- (1) There is created the "Alcoholic Beverage Control Commission." The commission is the governing board over the department.
- (2)
 - (a) The commission is composed of seven part-time commissioners appointed by the governor with the consent of the Senate.
 - (b) No more than four commissioners may be of the same political party.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.
- (4)
 - (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the consent of the Senate.
 - (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the consent of the Senate.
- (5) A commissioner shall take the oath of office.
- (6)
 - (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:
 - (i) the governor; or
 - (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.
 - (b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:
 - (i) the date, time, and place of the hearing; and
 - (ii) the alleged grounds for the removal.
 - (c) The commissioner shall have an opportunity to:
 - (i) attend the hearing;
 - (ii) present witnesses and other evidence; and
 - (iii) confront and cross examine witnesses.
 - (d) After a hearing under this Subsection (6):
 - (i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and
 - (ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.
 - (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).
 - (f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.
 - (g) The governor shall:
 - (i) issue the final order under this Subsection (6) in writing; and
 - (ii) serve the final order upon the commissioner.

- (7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8)
 - (a) The governor shall annually appoint the chair of the commission. A commissioner serves as chair to the commission at the pleasure of the governor. If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).
 - (b) The commission shall elect:
 - (i) another commissioner to serve as vice chair; and
 - (ii) other commission officers as the commission considers advisable.
 - (c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.
- (9)
 - (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.
 - (b) Four commissioners is a quorum for conducting commission business.
 - (c) A majority vote of the quorum present at a meeting is required for the commission to act.
- (10)
 - (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:
 - (i) the commission;
 - (ii) the chair; or
 - (iii) three commissioners upon filing a written request for a meeting with the chair.
 - (b) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act. A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

Amended by Chapter 365, 2012 General Session